

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Juan Carlos Almonte,

Plaintiff,

-against-

Joe Biden, Federal Agency, Federal
Judges, Federal Attorneys, Social
Security Administration, Social
Security Officers, and Brenna B.
Mahoney,

Defendants.

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Juan Carlos Almonte,

Plaintiff,

-against-

Joe Biden, All Individual Employee
Federal Navy Seal Officers, and
Brenna B. Mahoney,

Defendants.

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Juan Carlos Almonte,

Plaintiff,

-against-

Catherine O'Hagan Wolfe, Margaret
Lain, Gerard E. Lynch, Alison J.
Nathan, Sarah A.L. Merriam, Joe
Biden,

MEMORANDUM & ORDER
23-CV-7728 (EK) (LB)

24-CV-96 (EK) (LB)

24-CV-4649 (EK) (LB)

Defendants.

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ERIC KOMITEE, United States District Judge:

Plaintiff Juan Carlos Almonte – who is currently incarcerated at Auburn Correctional Facility – filed these *pro se* actions pursuant to 42 U.S.C. 1983 against President Joe Biden, federal agencies, federal judges, military officials, and federal court personnel, among other federal defendants.¹ Before the Court are Almonte’s motions to proceed *in forma pauperis* (“IFP”) in all three cases. Almonte is currently subject to an order barring him “from filing future federal civil actions IFP while he is a prisoner unless he is under imminent threat of serious physical injury.” *Almonte v. Law Enf’t Agency*, No. 22-CV-80, ECF No. 8 (S.D.N.Y. Mar. 29, 2022) (bar order).

In entering the bar order, Judge Swain relied on 28 U.S.C. § 1915(g) (the “three-strikes” bar). Judge Swain identified the following three dismissals as qualifying strikes: (1) *Almonte v. Law Enforcement Agency*, No. 21-CV-8270 (S.D.N.Y. Nov. 5, 2021); (2) *Almonte v. Karth*, No. 21-CV-6062 (S.D.N.Y. Oct. 1, 2021); and (3) *Almonte v. Noriega*, No. 21-CV-7414 (S.D.N.Y. Sept. 27, 2021).

¹ The Court notes that as Plaintiff named federal officials, the proper jurisdictional basis is under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) (“*Bivens*”).

Almonte may not circumvent the bar by filing here instead of the Southern District. *See, e.g., Nelson v. Chang*, No. 08-CV-1261, 2009 WL 367576, at *1-2 (E.D.N.Y. Feb. 10, 2009) (denying prisoner-plaintiff IFP status because he was subject to the three-strikes bar imposed by another district court and alleged no imminent danger). Moreover, based on the bar order, I have previously denied Almonte's requests to proceed IFP in two actions. *See Almonte v. Krajick et al.*, No. 22-CV-1562, ECF No. 5; *Almonte v. v. Krajick et al.*, 22-CV-2027, ECF No. 5. Given the bar, he must either pay the filing fee or plead facts demonstrating that he is "under imminent danger of serious physical injury."² The instant complaints set forth no allegations that Almonte is in such danger.³ Almonte's applications to proceed IFP are therefore denied.

Almonte must pay the \$402 filing fee in each case by September 16, 2024; the failure to do so in either case will result in dismissal. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore IFP status is denied for the purpose of any

² An imminent danger is one "existing at the time the complaint is filed." *Malik v. McGinnis*, 293 F.3d 559, 563 (2d Cir. 2002).

³ The Court notes that the allegations in Plaintiff's complaint are generally unintelligible, and most of the named Defendants are immune from suit. Given the bar order, there is no need to address the lack of merit in Plaintiff's complaint.

appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45
(1962).

SO ORDERED.

/s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: August 22, 2024
Brooklyn, New York